

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

**CIVIL NO. 3:02CV66  
(3:97CR22-9)**

<b>IVEY WALKER,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>Vs.</b>	)	<b><u>ORDER</u></b>
	)	
<hr/> <b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Respondent.</b>	)	
<hr/>	)	

**THIS MATTER** is before the Court on the Petitioner's notice of appeal filed November 9, 2005, which the Court construes as a request for a certificate of appealability.

An appeal may not be taken to the court of appeals from the denial of a motion pursuant to 28 U.S.C. § 2255<sup>1</sup> unless a certificate of appealability has been issued. **28 U.S.C. § 2253(c)(1)(B).** Such a certificate may not issue

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<sup>1</sup>The Petitioner's motion has been only partially adjudicated. **See Memorandum and Order, filed September 8, 2005, at 9 (dismissing Petitioner's claims that the Court lacked the jurisdiction to try, convict and impose sentence, and that the criminal case remains open).** Government has been ordered to respond to the remaining claims by November 20, 2005.

unless the applicant has made a substantial showing of the denial of a constitutional right. **28 U.S.C. § 2253(c)(2)**. The Petitioner has not made such a showing.

**IT IS, THEREFORE, ORDERED** that the Petitioner's motion for a certificate of appealability is hereby **DENIED**.

The Petitioner is advised that he may renew this request to the Fourth Circuit Court of Appeals within 30 days from entry of this Order.

**Signed: November 14, 2005**

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg  
United States District Judge

